

Council Communication

Department: Community Development Case #ZC-08-006 Applicant: Michael L. Collins	Ordinance No. <u>5981</u>	City Council: 3/24/08 Planning Commission: 3/11/08 First Reading: <u>March 24, 2008</u> Second Reading: Third Reading:
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Subject

Request of Michael Collins, 520 – 21st Avenue, to rezone the property located at 427 – 21st Avenue from R-2/Two Family Residential to C-2 Commercial. This property is legally described as Lots 20 through 25, except the east 10 feet of Lot 22, lying west of Highway 192 (South Expressway) and the North 1/2 of the vacated alley adjacent, Block 14, Hughes and Doniphan's Addition.

Background

Michael Collins is requesting rezoning of the above described property from R-2/Two Family Residential to C-2 Commercial to allow the construction of a parking lot on part of the property in order to provide additional truck parking for the nonconforming hauling business at 520 – 21st Avenue. He originally received a citation of municipal infraction for illegal parking on public right-of-way, specifically parking his construction vehicles on 21st Avenue, on June 19, 2007 with subsequent arraignment on June 25, 2007. Mr. Collins went to court on September 17, 2007 and is still under judge's advisement.

On January 7, 2008, he was sent, via certified mail, a citation of municipal infraction for illegal parking of vehicles on the subject property. This certified letter was returned to the Community Development Department on or after January 23, 2008 unclaimed. It has been determined that Mr. Collins is utilizing this residential property for employee parking along with numerous other vehicles, trailers, and campers that are unlicensed and considered a nuisance per City Ordinance 4.15.040 and presently being handled by Public Health. Several subsequent inspections have found that employees are no longer parking on 427 – 21st Avenue but the nuisance vehicles still persist.

All property owners within 200 feet were notified of the requested rezoning. One owner, Roberta Jay, 522 – 22nd Avenue contacted the Community Development Department to voice her opposition to the request. (See attached letter.)

Discussion

The 1928 Zoning Map shows this property as F-Open. With the adoption of the 1965 Zoning Map, the entire block was rezoned to C-2 Commercial even though no commercial activity ever took place. It was then rezoned from commercial to residential in 2005 (Case #ZC-05-012) in order to bring five residential uses into compliance. Also, the requested rezoning back to commercial is inconsistent with the 1994 Comprehensive plan which shows this block as multi-family residential.

Public Works is opposed to the requested rezoning. South 6th Street was reconstructed to residential standards and may not be sufficient for increased commercial traffic. Also, this portion of 21st Avenue (east of South 6th Street) does not meet current City standards.

The existing single family properties on the site are not going to be removed creating additional nonconforming uses.

The applicant has not provided any information demonstrating that the property is suited for commercial use or if a market exists for commercial development. The requested rezoning appears to be in support of an illegal trucking operation located to the north.

Recommendation

The Community Development Department recommends denial of the request to rezone 427 – 21st Avenue legally described as Lots 20 through 25, except the east 10 feet of Lot 22, lying west of Highway 192 (South Expressway) and the North 1/2 of the vacated alley adjacent, Block 14, Hughes and Doniphan's Addition from R-2 to C-2 for the reasons stated above.

Public Hearing

Michael Collins, 520 21st Avenue appeared before the Planning Commission in favor of the request.

Roberta Jay, 522 22nd Avenue (letter and pictures attached) and Gary Slatten, 1915 South 8th Street appeared in opposition.

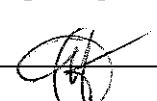
Planning Commission to City Council

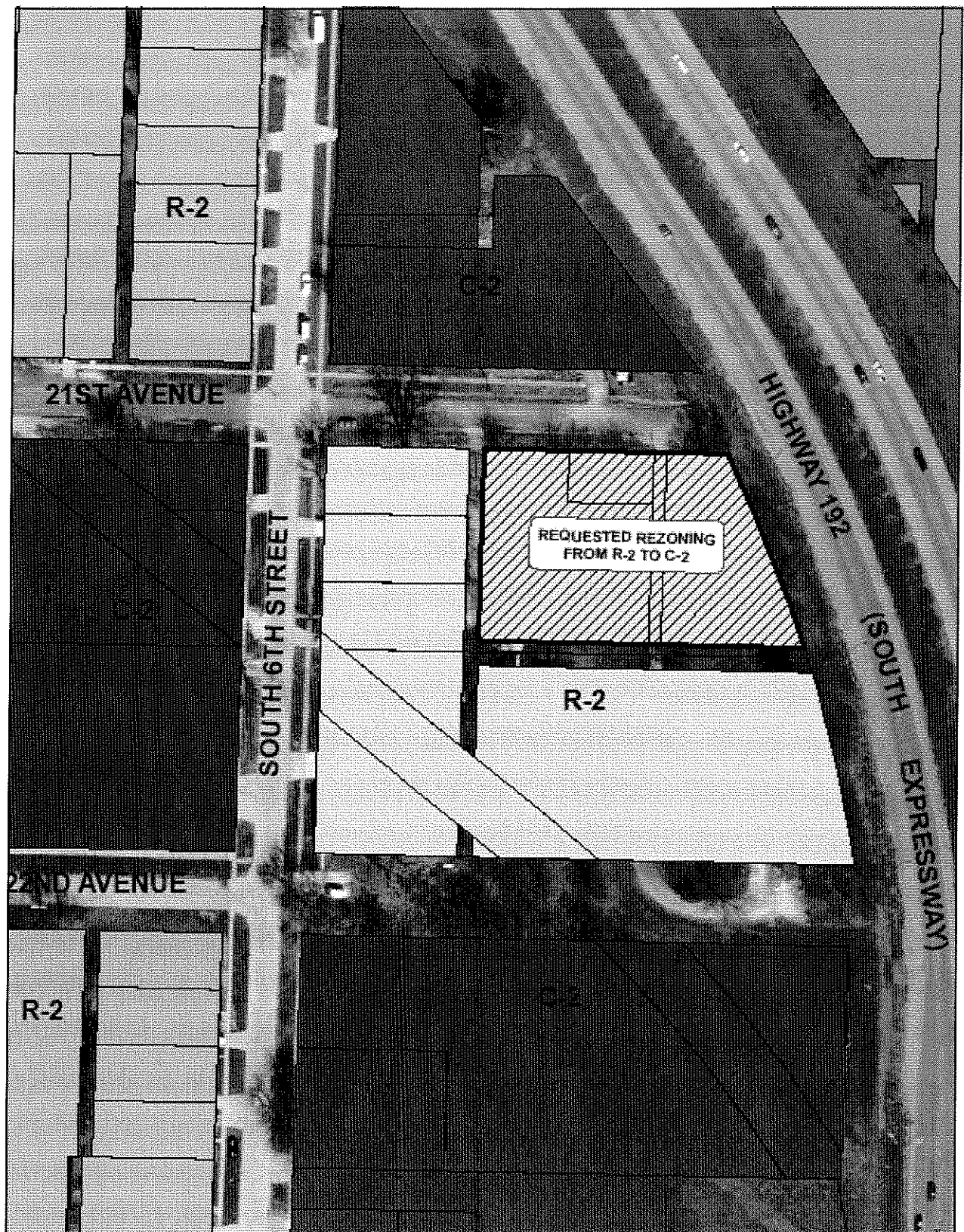
The Planning Commission recommends rezoning the property described above from R-2/Two Family Residential to C-2 Commercial.

VOTE: Aye 5 Nay 3 Abstain 0 Absent 3 Motion Carried.

Attachments: Map showing proposed rezoning area and surrounding zoning, layout of proposed parking lot and letter of opposition.

Prepared By: Rebecca Sall, Planning Technician, Community Development Department

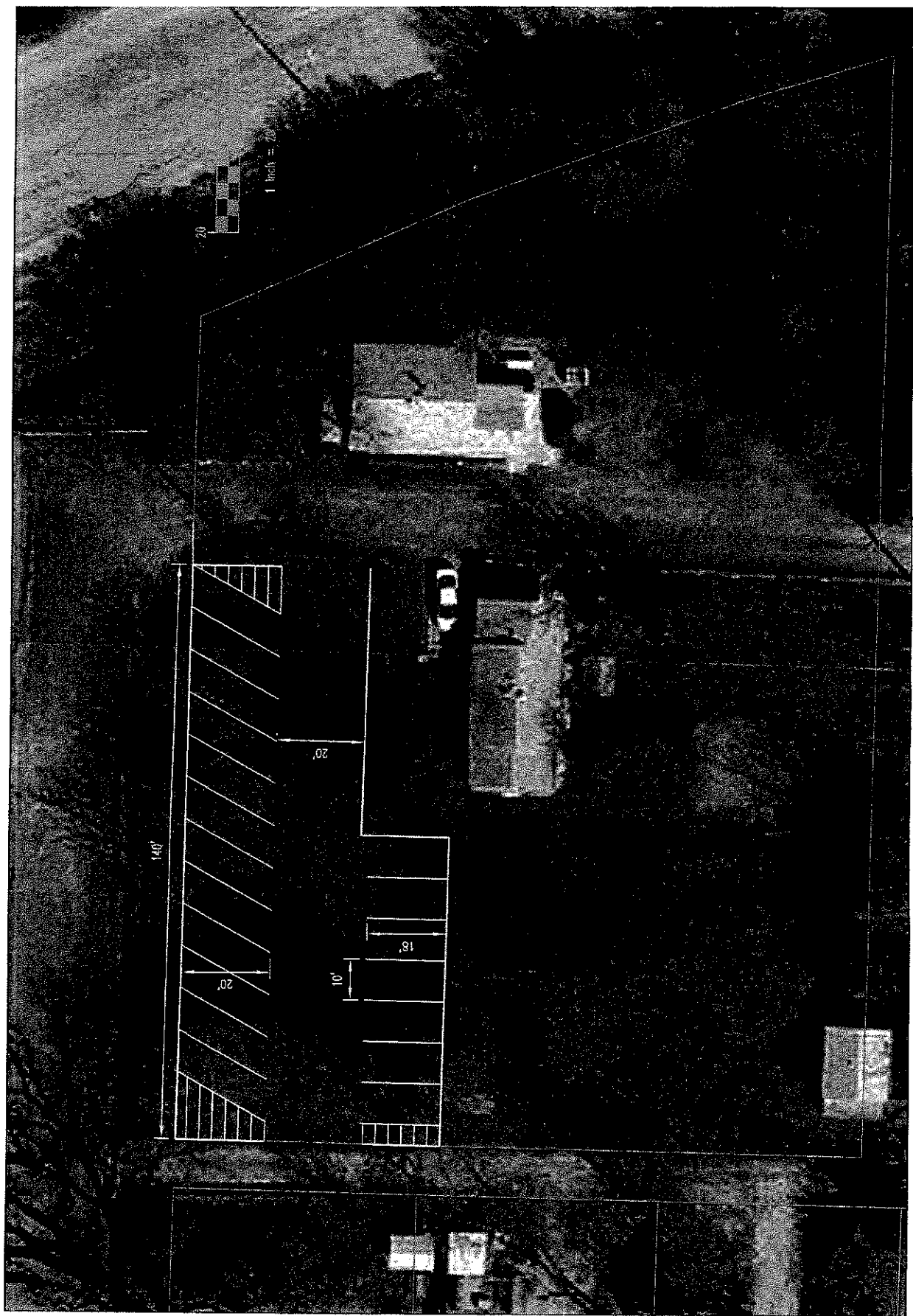




CASE #ZC-08-006



CASE #ZC-08-006



ROBERTA JAY
522 22ND AVE
COUNCIL BLUFFS
IA 51501
712-256-1475

COUNCIL BLUFFS
COMMUNITY DEVELOPMENT DEPT.

MAR - 5 2008

MARCH 5, 2008

RECEIVED

CITY PLANNING COMMISSION
COUNCIL BLUFFS
IA

DEAR COUNCIL,

I AM IN OPPOSITION OF THE REZONING OF THE PROPERTY AT 427 21ST AVE, COUNCIL BLUFFS, IA. EVEN THOUGH THE REZONING DOES NOT AFFECT MY PROPERTY DIRECTLY, IT DOES, IN FACT, AFFECT THE NEIGHBORHOOD IN WHICH I RESIDE.

I HAVE SPENT THOUSANDS OF DOLLARS OVER THE PAST 5 YEARS TO IMPROVE MY PROPERTY. THE PRESENCE OF THE TRUCKING COMPANY ASSOCIATED WITH THIS PROPOSAL IS AN EYE SORE TO THE WHOLE NEIGHBORHOOD AND WILL AFFECT THE FUTURE SALE OF MY PROPERTY. THOSE TRUCKS CAUSE AN INCREASE IN THE NOISE LEVEL WHEN THEY PASS BY, THEY CREATE A GREAT DEAL OF DIRT AND DUST, AND THEY ADD THE STINK OF DIESEL FUEL. THE ADDITION OF A PARKING LOT WOULD BE A FURTHER EYE SORE AND IRRITANT. IT WOULD ADD CARS, TRUCKS, AND OTHER VEHICLES TO THE ALREADY PRESENT ASSORTMENT OF CAMPING TRAILERS AND SUCH PARKED THERE. **ENCLOSED ARE PICTURES TAKEN 3-3-08. #1 IS THE VIEW I HAVE EVERY DAY FROM MY DRIVEWAY. #2 IS A CLOSE UP VIEW OF THE SAME THING. #3 IS TAKEN FROM THE TRACE WALKING TOWARD 6TH ST.**

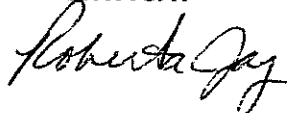
THE SPEED OF THE TRUCKS AND THOSE SAME DRIVERS IN THEIR PERSONAL VEHICLES ARE ALSO A DANGER TO THE NEIGHBORHOOD. THE ARRIVAL OF THE WABASH TRACE ADDITION TO OUR BLOCK WILL INCREASE THE FOOT AND CYCLE TRAFFIC. THE MAJORITY OF THE DRIVERS THAT WORK FOR THAT TRUCKING COMPANY **DO NOT ABIDE BY THE SPEED LIMIT AND WILL LIKELY CAUSE A SERIOUS ACCIDENT WHERE THE TRACE CROSSES 6TH ST.** THE ACCUMULATION OF PARKED VEHICLES WOULD ALSO NOT BE A PLEASANT SIGHT FOR THOSE OUT FOR A WALK ON THE TRACE.

I HAVE AN ADDITIONAL CONCERN ABOUT THE WEAR AND TEAR ON THE STREET FROM THOSE LARGE VEHICLES AND HOW LONG WILL IT BE BEFORE OUR STREET IS TORN UP AND IN NEED OF REPAIRS?

IT WAS ONLY SEVERAL YEARS AGO THAT THIS CLUSTER OF PROPERTIES WAS REZONED TO RESIDENTIAL, AND I SEE NO REASON FOR THAT ZONING TO BE CHANGED AT THIS TIME.

SINCERELY,

ROBERTA JAY



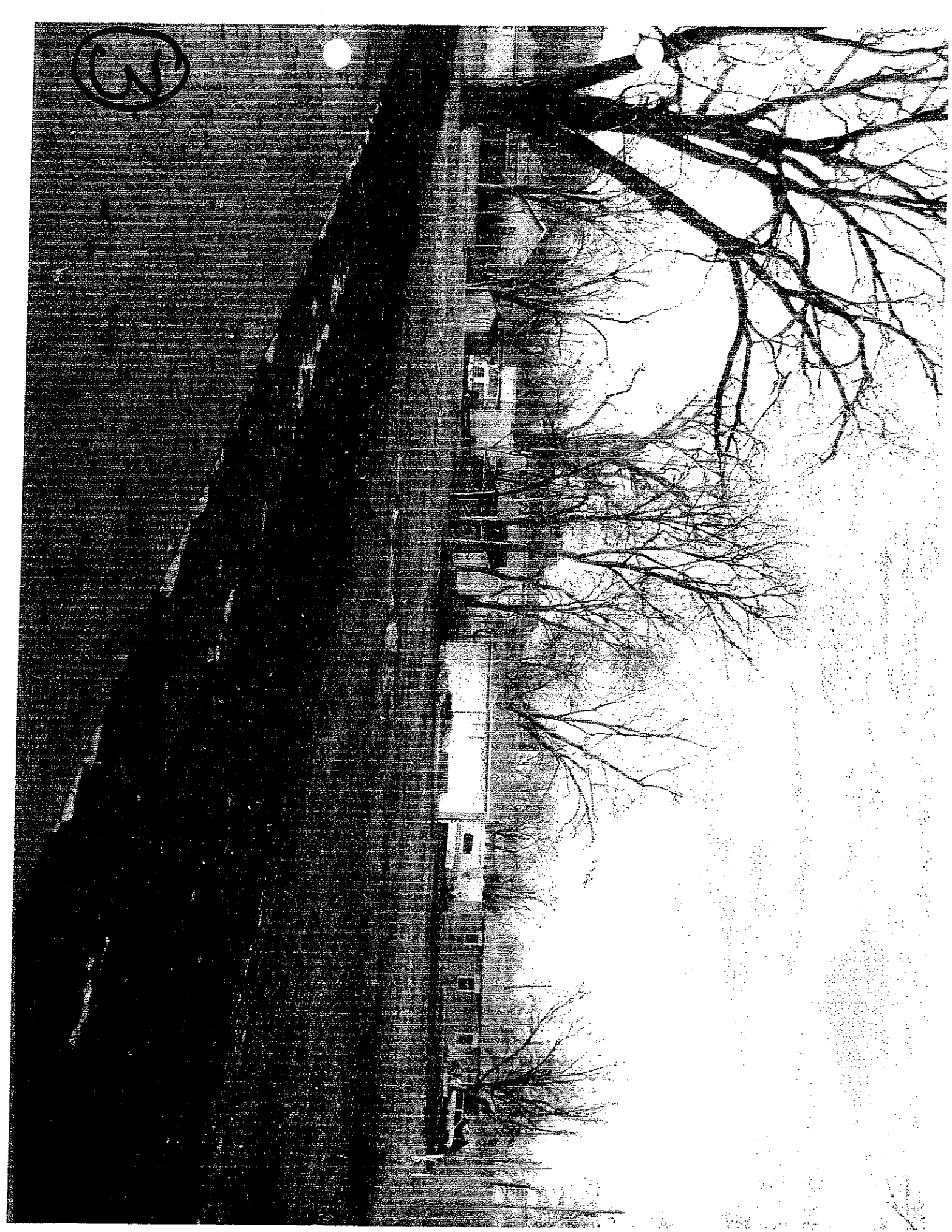
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Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA 51503

ORDINANCE NO. 5981

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY LOCATED AT 427 – 21ST AVENUE, IN COUNCIL BLUFFS, POTTAWATTAMIE COUNTY, IOWA, FROM ITS PRESENT DESIGNATION AS R-2/TWO FAMILY RESIDENTIAL TO C-2/COMMERCIAL, AS SET FORTH AND DEFINED IN CHAPTERS 15.09 AND 15.15 OF THE MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises located at 427 – 21st Avenue, as shown on the Attachments, and legally described as follows:

Lots 20 through 25, except the east 10 feet of Lot 22, lying west of Highway 192 (South Expressway) and the North ½ of the vacated alley adjacent, Block 14, Hughes and Doniphan's Addition, Council Bluffs, Pottawattamie County, Iowa,

from its present designation as R-2/Residential to C-2/Commercial as set forth and defined in Chapters 15.09 and 15.15 of Title 15 "Zoning" of the 2005 Municipal Code of Council Bluffs, Iowa.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

FIRST CONSIDERATION: March 24, 2008
SECOND CONSIDERATION: _____
PUBLIC HEARING: _____
THIRD CONSIDERATION: _____

Planning Case No. ZC-08-006

Council Communication

Department: Community Development Case # ZC-08-007 Applicant: Community Development Department	Ordinance No. <u>5982</u>	City Council: 3/24/08 Planning Commission: 3/11/08 First Reading: <u>March 24, 2008</u> Second Reading: Third Reading:
Subject		
<p>Request of the Community Development Department to rezone approximately 424 acres in five tracts of land, which were recently annexed, located directly east of the MidAmerican Energy plant as shown on the attached map and legally described on attached Exhibit 'A'.</p>		
Background		
<p>On December 10, 2007, the City Council adopted Resolution No. 07-425 approving voluntary annexation of approximately 424 acres of land directly east of the Walter E. Scott, Jr. Energy Center and abutting the City's southeast corporate boundary. The annexation was approved by the Secretary of State on January 15, 2008. The majority of the annexed property is owned by MidAmerican Energy with Tract 4 being owned by Robert D. Adkins Sons. The Municipal Code requires rezoning recently annexed land to the City's classification system, consistent with the intent of the comprehensive plan. Tracts 1, 2A and 3, which are currently zoned I-2/General Industrial in the County's classification system, are to be rezoned to I-3/Heavy Industrial. Tract 4, currently A-3/River Front and Agricultural Production District, is to be rezoned to A-2/Parks, Estates and Agricultural.</p>		
Discussion		
<p>Changes are not expected to the use of this land. The Adkins land is farmed and will remain in agricultural use. The MidAmerican Energy land is used to support the power plant and will not be available for future development. No changes are expected to the operation the drainage district. However, future development east of Tract 5 is expected in the near future. The annexation was the initial step to assure that the expected development annexed in a timely manner so that municipal improvements/infrastructure can be designed and extended.</p> <p>Both the city and the County are completing an amendment to the future land use plan in the two-mile extra territorial jurisdiction for this area from Agricultural to Industrial.</p>		
Recommendation		
<p>The Community Development Department recommends rezoning Tracts 1, 2A and 3 (as described) from I-2/General Industrial to I-3/Heavy Industrial; rezoning Tract 4 (as described) from A-3/River Front and Agricultural Production District to A-2/Parks, Estates and Agricultural.; and rezoning Tract 5 (as described) from A-3/River Front and Agricultural Production District to I-3/Heavy Industrial.</p>		
Public Hearing		
<p>Gayle Malmquist, Community Development Department and Tom Saccoman, MidAmerican Energy appeared before the Planning Commission in favor of the request. No one appeared in opposition.</p>		
Planning Commission to City Council		
<p>The Planning Commission recommends rezoning:</p> <ol style="list-style-type: none">1. Tracts 1, 2A and 3 as described elsewhere from I-2/General Industrial (County) to I-3/Heavy Industrial (City).2. Tract 4 as described elsewhere from A-3/River Front and Agricultural Production District (County) to A-2/Parks, Estates and Agricultural (City).3. Tract 5 as described elsewhere from A-3/River Front and Agricultural Production District (County) to I-3/Heavy Industrial (City).		
<p>VOTE: Aye 8 Nay 0 Abstain 0 Absent 3 Motion Carried.</p>		
<p>Attachments: Exhibit 'A' and map showing proposed rezoning area and surrounding zoning. Prepared By: Rebecca Sall, Planning Technician, Community Development Department</p>		

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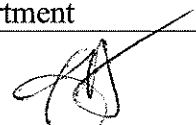


EXHIBIT 'A'
CASE #ZC-08-007

LEGAL DESCRIPTION – TRACT 1

A PARCEL OF LAND BEING A PORTION OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 19, A PORTION OF THE NORTHEAST QUARTER AND A PORTION OF THE NORTHWEST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, ALL IN TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 30;

THENCE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER OF SECTION 30, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 2266.20 FEET, MORE OR LESS TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF PONY CREEK, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 376.23 FEET TO THE SOUTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 30;

THENCE ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF THE NORTHEAST QUARTER, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 1321.33 FEET TO THE SOUTHWEST CORNER OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SAID SECTION 30;

THENCE ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, NORTH 00 DEGREES 46 MINUTES 21 SECONDS EAST, 517.46 FEET, MORE OR LESS TO A POINT ON THE EASTERLY RIGHT-OF-WAY LINE OF MOSQUITO CREEK;

THENCE ALONG SAID EASTERLY RIGHT-OF-WAY LINE THE FOLLOWING 2 COURSES:

1. NORTH 13 DEGREES 20 MINUTES 39 SECONDS EAST, 820.61 FEET;
2. NORTH 01 DEGREE 30 MINUTES 51 SECONDS WEST, 693.39 FEET, MORE OR LESS TO A POINT ON THE NORTH PROPERTY LINE OF MIDAMERICAN ENERGY COMPANY PROPERTY;

THENCE ALONG SAID NORTH LINE THE FOLLOWING 9 COURSES:

1. NORTH 68 DEGREES 36 MINUTES 14 SECONDS EAST, 117.54 FEET;
2. NORTH 77 DEGREES 47 MINUTES 21 SECONDS EAST, 346.86 FEET;
3. SOUTH 87 DEGREES 09 MINUTES 29 SECONDS EAST, 451.63 FEET;
4. SOUTH 61 DEGREES 02 MINUTES 48 SECONDS EAST, 783.12 FEET;
5. SOUTH 06 DEGREES 35 MINUTES 58 SECONDS WEST, 33.90 FEET;
6. SOUTH 60 DEGREES 53 MINUTES 50 SECONDS EAST, 196.84 FEET;
7. SOUTH 39 DEGREES 51 MINUTES 41 SECONDS EAST, 70.32 FEET;
8. SOUTH 53 DEGREES 52 MINUTES 53 SECONDS EAST, 223.72 FEET
9. SOUTH 68 DEGREES 21 MINUTES 39 SECONDS EAST, 293.45 FEET, MORE OR LESS TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 29;

THENCE ALONG SAID WEST RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

1. SOUTH 02 DEGREES 02 MINUTES 35 SECONDS WEST, 1201.43 FEET;
2. SOUTH 05 DEGREES 45 MINUTES 44 SECONDS WEST, 200.40 FEET;
3. SOUTH 02 DEGREES 02 MINUTES 35 SECONDS WEST, 1142.00 FEET, MORE OR LESS TO A POINT ON SAID NORTH RIGHT-OF-WAY LINE OF PONY CREEK;

THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

1. NORTH 88 DEGREES 17 MINUTES 00 SECONDS WEST, 881.77 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1328.24 FEET;
2. SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 23 DEGREES 28 MINUTES 45 SECONDS, 544.30 FEET;
3. SOUTH 67 DEGREES 43 MINUTES 02 SECONDS WEST, 1012.39 FEET, MORE OR LESS TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 171.1 ACRES, MORE OR LESS.

LEGAL DESCRIPTION – TRACT 2A

A STRIP OF LAND, 300.00 FEET IN WIDTH, BEING A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER AND A PORTION OF THE NORTH HALF OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTH QUARTER CORNER OF SAID SECTION 30;

THENCE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 1940.12 FEET, MORE OR LESS, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF PONY CREEK, SAID POINT BEING THE TRUE POINT OF BEGINNING;

THENCE CONTINUING ALONG SAID WEST LINE, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 326.08 FEET, MORE OR LESS, TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF SAID PONY CREEK;

THENCE ALONG SAID NORTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

1. NORTH 67 DEGREES 43 MINUTES 02 SECONDS EAST, 1012.39 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 1328.24 FEET;
2. NORTHEASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 23 DEGREES 28 MINUTES 45 SECONDS, 544.30 FEET;
3. SOUTH 88 DEGREES 17 MINUTES 00 SECONDS EAST, 881.77 FEET, MORE OR LESS, TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF INTERSTATE 29;

THENCE ALONG SAID WEST RIGHT-OF-WAY LINE, SOUTH 02 DEGREES 02 MINUTES 35 SECONDS WEST, 300.00 FEET, MORE OR LESS, TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF SAID PONY CREEK;

THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

1. NORTH 88 DEGREES 17 MINUTES 00 SECONDS WEST, 880.06 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 972.79 FEET;
2. SOUTHWESTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 24 DEGREES 37 MINUTES 55 SECONDS, 418.21 FEET;
3. SOUTH 67 DEGREES 43 MINUTES 01 SECOND WEST, 1141.02 FEET TO THE TRUE POINT OF BEGINNING;

SAID STRIP OF LAND CONTAINS AN AREA OF 16.8 ACRES, MORE OR LESS.

LEGAL DESCRIPTION – TRACT 3

A PARCEL OF LAND BEING A PORTION OF THE SOUTHEAST QUARTER OF SECTION 30, TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SAID SECTION 30;

THENCE ALONG THE WEST LINE OF SAID SOUTHEAST QUARTER, NORTH 00 DEGREES 48 MINUTES 03 SECONDS EAST, 1940.12 FEET, MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF PONY CREEK;

THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 3 COURSES:

1. NORTH 67 DEGREES 43 MINUTES 01 SECOND EAST, 1141.02 FEET TO THE BEGINNING OF A CURVE, CONCAVE SOUTHERLY, HAVING A RADIUS OF 972.79 FEET;
2. EASTERLY, ALONG SAID CURVE, THROUGH A CENTRAL ANGLE OF 24 DEGREES 37 MINUTES 55 SECONDS, 418.21 FEET;
3. SOUTH 88 DEGREES 17 MINUTES 00 SECONDS EAST, 1030.05 FEET, MORE OR LESS TO THE CENTERLINE OF INTERSTATE 29;

THENCE ALONG SAID CENTERLINE THE FOLLOWING 3 COURSES:

1. SOUTH 02 DEGREES 02 MINUTES 35 SECONDS WEST, 862.35 FEET;
2. SOUTH 01 DEGREE 23 MINUTES 38 SECONDS WEST, 774.89 FEET;
3. SOUTH 00 DEGREES 45 MINUTES 16 SECONDS WEST, 855.20 FEET, MORE OR LESS TO THE SOUTH LINE OF SAID SOUTHEAST QUARTER;

THENCE ALONG SAID SOUTH LINE, NORTH 88 DEGREES 17 MINUTES 16 SECONDS WEST, 2460.68 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 133.2 ACRES, MORE OR LESS.

LEGAL DESCRIPTION – TRACT 4

A PARCEL OF LAND BEING ALL OF GOVERNMENT LOT 4 IN THE SOUTHWEST QUARTER OF SECTION 29 AND A PORTION OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 30, ALL IN TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30;

THENCE ALONG THE SOUTH LINE OF SAID SOUTHEAST QUARTER, NORTH 88 DEGREES 17 MINUTES 16 SECONDS WEST, 175.45 FEET, MORE OR LESS TO THE CENTERLINE OF INTERSTATE 29;

THENCE ALONG SAID CENTERLINE, NORTH 00 DEGREES 45 MINUTES 16 SECONDS EAST, 233.64 FEET TO THE TRUE POINT OF BEGINNING;

THENCE ALONG SAID CENTERLINE THE FOLLOWING 3 COURSES:

1. NORTH 00 DEGREES 45 MINUTES 16 SECONDS EAST, 621.56 FEET;
2. NORTH 01 DEGREE 23 MINUTES 38 SECONDS EAST, 774.89 FEET;
3. NORTH 02 DEGREES 02 MINUTES 35 SECONDS EAST, 802.48 FEET, MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF PONY CREEK;

THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 9 COURSES:

1. SOUTH 88 DEGREES 48 MINUTES 24 SECONDS, 263.63 FEET;
2. SOUTH 01 DEGREE 11 MINUTES 04 SECONDS WEST, 15.00 FEET;
3. SOUTH 88 DEGREES 48 MINUTES 42 SECONDS EAST, 175.00 FEET;
4. NORTH 01 DEGREE 11 MINUTES 04 SECONDS EAST, 15.00 FEET;
5. SOUTH 88 DEGREES 48 MINUTES 32 SECONDS EAST, 954.51 FEET;
6. SOUTH 01 DEGREE 11 MINUTES 04 SECONDS WEST, 15.00 FEET;
7. SOUTH 88 DEGREES 48 MINUTES 30 SECONDS EAST, 125.00 FEET;
8. NORTH 01 DEGREE 11 MINUTES 04 SECONDS EAST, 15.00 FEET;
9. SOUTH 88 DEGREES 48 MINUTES 44 SECONDS EAST, 86.19 FEET TO A POINT ON THE GOVERNMENT MEANDER LINE OF CARR LAKE;

THENCE ALONG SAID GOVERNMENT MEANDER LINE THE FOLLOWING 5 COURSES:

1. SOUTH 66 DEGREES 29 MINUTES 22 SECONDS WEST, 507.45 FEET;
2. SOUTH 13 DEGREES 09 MINUTES 49 SECONDS WEST, 660.09 FEET;
3. SOUTH 31 DEGREES 52 MINUTES 15 SECONDS EAST, 528.60 FEET;
4. SOUTH 34 DEGREES 45 MINUTES 02 SECONDS WEST, 362.88 FEET;
5. SOUTH 62 DEGREES 50 MINUTES 44 SECONDS WEST ALONG IT'S SOUTHWESTERLY PROLONGATION, 1254.50 FEET TO THE TRUE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 50.4 ACRES, MORE OR LESS.

LEGAL DESCRIPTION – TRACT 5

A PARCEL OF LAND BEING THAT PART OF CARR LAKE LOCATED IN THE SOUTHWEST QUARTER AND LOT 5 IN THE AUDITOR'S SUBDIVISION OF GOVERNMENT LOT 1 AND A PORTION OF LOT 3 IN THE AUDITOR'S SUBDIVISION OF GOVERNMENT LOT 2 ALL LOCATED IN THE SOUTHWEST QUARTER OF SECTION 29 AND A PORTION OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 30, ALL IN TOWNSHIP 74 NORTH, RANGE 43 WEST OF THE 5th PRINCIPAL MERIDIAN, POTTAWATTAMIE COUNTY, IOWA, BEING MORE FULLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID SECTION 30;

THENCE ALONG THE SOUTH LINE OF SAID SECTION 30, NORTH 88 DEGREES 17 MINUTES 16 SECONDS WEST, 175.45 FEET TO A POINT ON THE CENTERLINE OF INTERSTATE 29;

THENCE ALONG SAID CENTERLINE, NORTH 00 DEGREES 45 MINUTES 16 SECONDS EAST, 233.64 FEET, MORE OR LESS TO A POINT ON THE SOUTHWESTERLY PROLONGATION OF THE GOVERNMENT MEANDER LINE OF CARR LAKE;

THENCE ALONG SAID GOVERNMENT MEANDER LINE THE FOLLOWING 5 COURSES:

1. NORTH 62 DEGREES 50 MINUTES 44 SECONDS EAST, 1254.50 FEET;
2. NORTH 34 DEGREES 45 MINUTES 03 SECONDS EAST, 362.88 FEET;
3. NORTH 31 DEGREES 52 MINUTES 15 SECONDS WEST, 528.60 FEET;
4. NORTH 13 DEGREES 09 MINUTES 49 SECONDS EAST, 660.09 FEET;
5. NORTH 66 DEGREES 29 MINUTES 22 SECONDS EAST, 507.45 FEET, MORE OR LESS TO THE SOUTH RIGHT-OF-WAY LINE OF PONY CREEK

THENCE ALONG SAID SOUTH RIGHT-OF-WAY LINE THE FOLLOWING 2 COURSES:

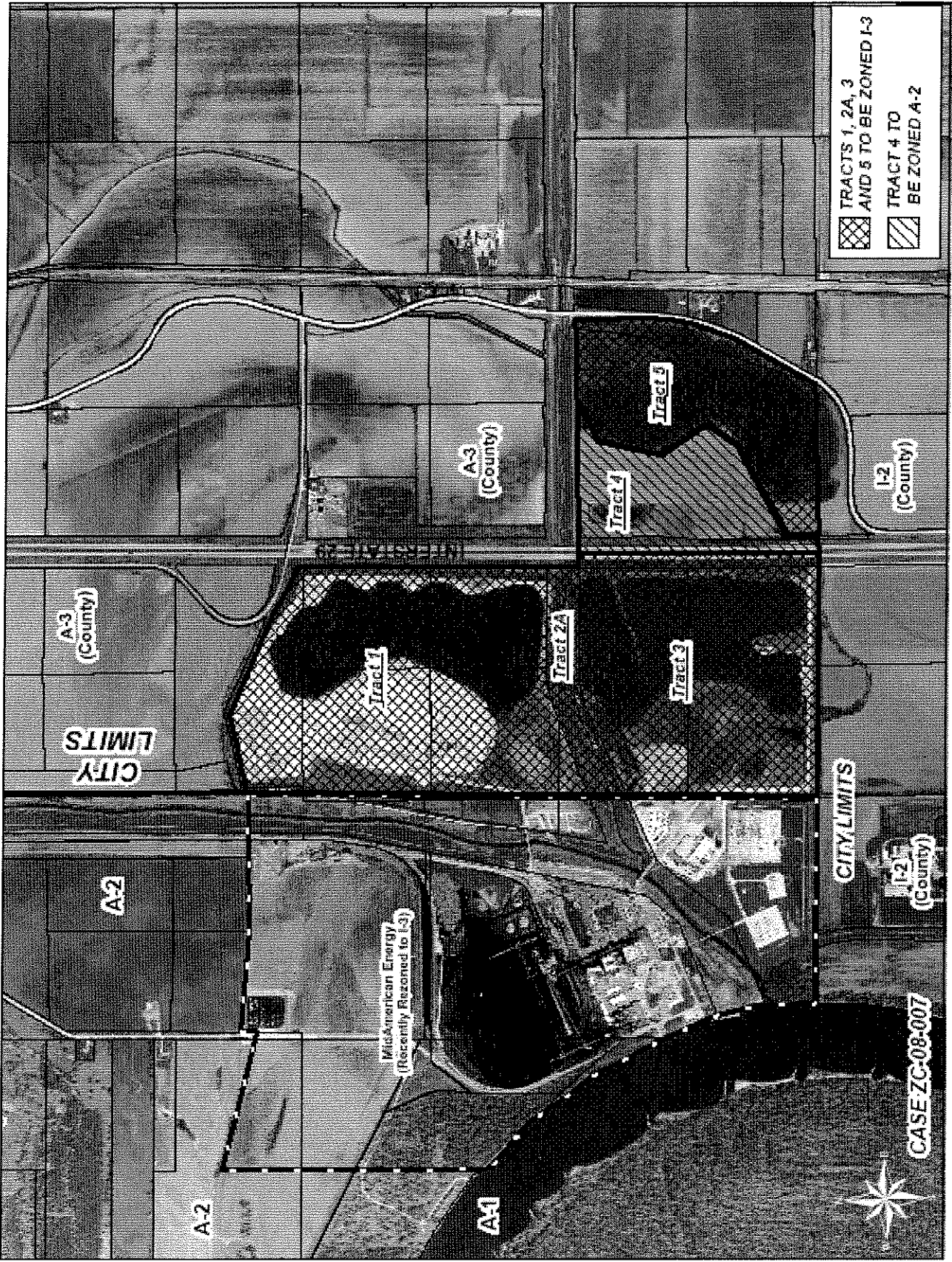
1. SOUTH 88 DEGREES 48 MINUTES 32 SECONDS EAST, 615.98 FEET;
2. NORTH 82 DEGREES 33 MINUTES 30 SECONDS EAST, 205.88 FEET, MORE OR LESS TO A POINT ON THE CENTERLINE OF 192nd STREET;

THENCE ALONG SAID CENTERLINE THE FOLLOWING 5 COURSES:

1. SOUTH 02 DEGREES 31 MINUTES 24 SECONDS WEST, 329.35 FEET;
2. SOUTH 06 DEGREES 15 MINUTES 50 SECONDS WEST, 816.42 FEET;
3. SOUTH 19 DEGREES 18 MINUTES 50 SECONDS WEST, 340.56 FEET;
4. SOUTH 24 DEGREES 40 MINUTES 50 SECONDS WEST, 345.84 FEET;
5. SOUTH 31 DEGREES 30 MINUTES 50 SECONDS WEST, 816.42 FEET, MORE OR LESS TO A POINT ON THE SOUTH LINE OF SAID SECTION 29;

THENCE ALONG SAID SOUTH LINE, NORTH 87 DEGREES 56 MINUTES 17 SECONDS WEST, 1520.93 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS AN AREA OF 52.4 ACRES, MORE OR LESS.



TRACTS 1, 2A, 3
AND 5 TO BE ZONED I-3

TRACT 4 TO
BE ZONED A-2

CASE ZC-08-007

CITY LIMITS

CITY LIMITS

MidAmerican Energy
(Recently Rezoned to I-3)

I-2
(County)

I-2
(County)

A-3
(County)

A-3
(County)

Tract 5

Tract 4

Tract 2A

Tract 3

Tract 1

A-2

A-1

A-2

Prepared by: City of Council Bluffs Legal Department, 209 Pearl Street, Council Bluffs, IA 51503 (712) 328-4620
Return to: City Clerk, 209 Pearl Street, Council Bluffs, IA

ORDINANCE NO. 5982

AN ORDINANCE TO AMEND THE ZONING MAP OF THE CITY OF COUNCIL BLUFFS, IOWA, AS ADOPTED BY REFERENCE IN SECTION 15.02.040 OF THE 2005 MUNICIPAL CODE OF COUNCIL BLUFFS, IOWA, BY CHANGING THE DISTRICT DESIGNATION OF CERTAIN GROUNDS, PREMISES AND PROPERTY CONSISTING OF APPROXIMATELY 424 ACRES IN FIVE TRACTS OF LAND, WHICH WERE RECENTLY ANNEXED, LOCATED DIRECTLY EAST OF THE MIDAMERICAN ENERGY PLANT.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That the Zoning Map of the City of Council Bluffs, Iowa, as adopted by reference in Section 15.02.040 of the 2005 Municipal Code of the City of Council Bluffs, Iowa, be and the same is hereby amended by changing the district designation of certain grounds, property and premises consisting of approximately 424 acres in five tracts of land located directly east of the MidAmerican Energy Plan, as follows:

Tracts 1, 2A and 3 from I-2/General Industrial to I-3/Heavy Industrial;
Tract 4, from A-3/River Front and Agricultural Production to A-2/Parks, Estates and Agricultural; and
Tract 5 from A-3 River Front and Agricultural Production to I-3/Heavy Industrial.

See Exhibit "A" for complete legal descriptions.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Effective Date. This ordinance shall be in full force and effect from and after its final passage, approval and publication, as by law provided.

PASSED
AND _____, 2008
APPROVED

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

FIRST CONSIDERATION: March 24, 2008

SECOND CONSIDERATION: _____

PUBLIC HEARING: _____

THIRD CONSIDERATION: _____

Planning Case No. ZC-08-007

Council Communication

Department: Public Works	Ordinance No. <u>5983 - 5993</u>	First Reading <u>March 24, 2008</u>
Division: Building	Title 13.07	Second Reading
Case/Project No.	Title 13.09	Third Reading
	Title 13.10	
	Title 13.10	
	Title 13.11	
	Title 13.12	
	Title 13.13	
	Title 13.13	
	Title 13.16	
	Title 13.21	

Subject/Title

Proposed ordinances to amend Municipal Code Title 13 "Buildings and Construction"

Background/Discussion

The first proposed ordinance is to address the late penalty for General Contractor license renewals that is administered differently from the late penalty for Electrical trades license renewals. The General Contractor has 30 days grace period after expiration date before a late fee is assessed. The electrical trades have no grace period with the late fee assessed upon expiration of the license. Both the General Contractors and the Electrical trade licenses have sixty days after expiration to renew without testing. For consistency, it is proposed that Municipal Code Section 13.07.120c be amended to conform the General Contractor's license with the electrical trade license procedure which assesses a \$5.00 late fee on renewals occurring up to sixty days after the expiration date. This ordinance is to be effective upon passage and publication.

The State Legislature has made recent changes to the state laws of Iowa by implementing certain trade licenses being known as:

IC 104C created state licensing of the Plumbing and Mechanical trades and declares that all plumbing and mechanical licenses issued by any governmental subdivision shall be null and void effective July 1, 2008.

IC 103 created state licensing of the Electrical trade and Alarm system trade that allows persons to either be licensed by the State of Iowa or in a governmental subdivision effective January 1, 2008.

IC 100C state certification for the Fire Extinguishing System Contractor became effective July 1, 2006. Contractors were required to be certified in order to operate legally in Iowa by October 1, 2006.

There are several amendments for the Municipal Code that are now required because of the above legislative action by the State of Iowa. The Municipal Code chapters that are being presented for amendments are as follows:

Chapter 13.09 Mechanical Code

Chapter 13.10 Licensing of the Mechanical Trade

SF (1-11)

Chapter 13.11	Registration of the Fire Sprinkling Trade
Chapter 13.12	Plumbing Code
Chapter 13.13	Licensing/Registration of the Plumbing Trade
Chapter 13.16	Electrical Code

Section 13.09.060 Mechanical Code – Mechanical permits issued to.

This existing section is proposed to be amended to allow homeowners and those persons with the new state mechanical master's license (instead of our local mechanical master's license) to obtain a mechanical permit. Currently Homeowners may be issued permits in accordance with Section 13.09.070. Adding Homeowners to Section 13.09.060 clarifies the existing practice. This ordinance is to be effective on July 1, 2008.

Section 13.10.070b Licensing of the Mechanical Trade – Generally.

This exiting section is proposed to be amended to extend the current mechanical license expiration date from May 1, 2008 to July 1, 2008 to coincide with the implementation of state licensing. This ordinance is to be effective upon passage and publication.

Chapter 13.10 Licensing of the Mechanical Trade.

This chapter that requires the local mechanical license is proposed to be deleted. The new state law preempts this city from local licensing the mechanical trade. The loss of the mechanical license revenue to the General Fund is estimated at \$55,000.00 biennially. This ordinance is to be effective on July 1, 2008.

Chapter 13.11 Registration of the Fire Sprinkler Trade.

This chapter is proposed to be deleted because of current state fire sprinkler licensing laws. The Fire Extinguishing System Contractor Certification Program was authorized by the Iowa General Assembly during its 2004 session. The legislation, Iowa Code Chapter 100C, became effective July 1, 2005, with Contractors to be certified in order to operate legally in Iowa by October 1, 2006. Therefore, the requirement for local licensing is no longer necessary. This ordinance is to be effective upon passage and publication.

Section 13.12.055 Plumbing permits issued to.

This section is proposed to be added to allow homeowners and those persons with the new state plumbing master's license (instead of our local plumber's license) to obtain a plumbing permit. Currently Homeowners may be issued permits in accordance with Section 13.12.080. Adding Homeowners to Section 13.12.055 clarifies the existing practice. This ordinance is to be effective on July 1, 2008.

Sections 13.13.010, 13.13.020, 13.13.030 and 13.13.180 through 13.13.420

Chapter 13.13 regulates the licensing/registration of the plumbing trade. The new state licensing eliminates the city's ability to locally license plumbers. The chapter also established the Plumbing Board of Appeals. The Board of Appeals will remain in place as a mechanism of appeal. Proposed changes are: In Section 13.13.0101, rename chapter

title from "Licensing/Registration of the Plumbing Trade" to "Plumbing Board of Appeals". In Section 13.13.020, delete purpose and scope section as the purpose of the Plumbing Board of Appeals is already defined in Section 13.13.100. In Section 13.13.030, rename section title from "Plumbing board of appeals" to "Purpose and Scope". In Sections 13.13.180 through 13.13.410, delete sections that deal with licensing and exams. The loss of the plumbing license revenue to the General Fund is estimated at \$45,000.00 biennially. This ordinance is to be effective on July 1, 2008.

Section 13.16.165 Electrical permits issued to.

This section is proposed to be added to allow homeowners; those persons with the new state electrical master's license; and those persons who have a local Council Bluffs electrical contractor's license to be able to obtain an electrical permit. Currently Homeowners may be issued permits in accordance with Section 13.16.160. Adding Homeowners to Section 13.16.165 clarifies the existing practice. The new law gives the trade persons the option to either obtain a State electrical license and work anywhere in the state of Iowa or keep their local Council Bluffs electrical license and work only in Council Bluffs. The electrical license revenue to the General Fund is estimated at \$82,000.00 biennially. Loss of revenue to the city is unknown at this time. This ordinance is to be effective upon passage and publication.

The last proposed ordinance isn't related to the above State licenses amendments. Proposed is an amendment to Municipal Code Section 13.21.065 to clarify the existing International Property Maintenance Code Section 303 which regulates Swimming Pools, Spas, and Hot Tubs. Section 303.2 entitled "Enclosures" requires fencing for pools, tubs and spas containing more than 24 inches of water. The problem is that some people have suggested that their 5 foot deep pool never contains more than 23 inches of water and therefore is not required to be fenced. The proposed change to Section 303.2 is to amend the paragraph to read "...pools, hot tubs and spas capable of containing water more than 24 inches". This ordinance is to be effective upon passage and publication.

Building Official's Signature

Public Works Director's Signature

Mayor's Signature

ORDINANCE No. 5983

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.07 entitled "General Contractor's Registration" by amending Section 13.07.120c entitled "License – Generally" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENT.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.07 entitled "General Contractor's Registration" is hereby amending Section 13.07.120(c) entitled "License - Generally" which shall be codified and read as follows:

Section 13.07.120(c) License - Generally.

If an expired license is not renewed by July August 1st, there will be a late penalty fee as set forth in the prevailing schedule of fees, Chapter 2.08.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- -08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5F(1)

ORDINANCE No. 5984

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.09 entitled "Mechanical Code" by amending Section 13.09.060 entitled "Section 106.4.7 added – Mechanical Permits issued to" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENTS.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.09 which is entitled "Mechanical Code", is hereby amending Section 13.09.060 entitled "Section 106.4.7 added – Mechanical Permits issued to" which shall be codified and read as follows:

Section 13.09.060 – Mechanical Permits issued to.

Section 106.4.7 shall be added as follows:

Mechanical Permits issued to. Mechanical permits shall only be issued to active State of Iowa licensed Mechanical Masters ~~in accordance with Municipal Code Chapter 13.10~~ and to Homeowners as set out in Section 13.09.070.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F(2)

ORDINANCE No. 5985

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.10 which is entitled "Licensing of the Mechanical Trade", by amending Section 13.10.070(b) entitled "Licensing – Generally" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENT. That the 2005 edition of the Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.10 entitled "Licensing of the Mechanical Trade", is hereby amending Section 13.10.070(b) entitled "Licensing – Generally" which shall be codified and read as follows:

Section 13.10.070(b)

All Council Bluffs mechanical licenses shall expire on July 1, 2008 ~~May 1st of each even-numbered year and may be renewed thereafter biennially upon application of the licensee and payment of the fee to the city clerk.~~

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- -08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F (3)

ORDINANCE No. 5986

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" by repealing in its entirety Chapter 13.10 which was entitled "Licensing of the Mechanical Trade" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. REPEALER.

That the 2005 Municipal Code of Council Bluffs, Iowa, Chapter 13.10 entitled "Licensing of the Mechanical Trade" shall be repealed in its entirety. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED
AND
APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F (4)

ORDINANCE No. 5987

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" by repealing in its entirety Chapter 13.11 entitled "Registration of the Fire Sprinkling Trade" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. REPEALING.

That the 2005 Municipal Code of Council Bluffs Chapter 13.11 entitled "Registration of the Fire Sprinkling Trade" shall hereby be repealed in its entirety. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 2. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- -08) as by law provided.

PASSED
AND
APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008
Public Hearing:
Second Consideration:
Third Consideration:

5 F (5)

ORDINANCE No. 5988

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.12 entitled "Plumbing Code" by adding Section 13.12.055 entitled "Plumbing Permits issued to" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENTS.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.12 entitled "Plumbing Code", is hereby amended by the addition of Section 13.12.055 entitled "Plumbing Permits issued to" which shall be codified and read as follows:

Section 13.12.055 – Plumbing Permits issued to.

Section 103.3.6 shall be added to read as follows:

Plumbing Permits issued to. A plumbing permit shall only be issued to the Plumbing Master who has a valid State of Iowa Plumbing Master's and/or to Homeowners as set out in Municipal Code Section 13.12.080.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F(4)

ORDINANCE No. 5989

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.13 entitled "Licensing/Registration of the Plumbing Trade" by amending Sections 13.13.010 and 13.13.030 and repealing Section 13.13.020 and parts of Section 13.13.180 through Section 13.13.410 to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENT.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.13 entitled "Licensing of the Plumbing Trade" is hereby amending Section 13.13.010 entitled "Title" which shall be codified and read as follows:

Section 13.13.010 Title. This chapter shall be known as the "Plumbing Board of Appeals" ~~licensing/registration of the plumbing trade~~, and may be so cited.

SECTION 2. REPEALER.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.13 entitled "Licensing of the Plumbing Trade" is hereby deleting Section 13.13.020 entitled "Purpose and Scope" to be codified.

SECTION 3. AMENDMENT.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.13 entitled "Licensing of the Plumbing Trade" is hereby amending the title of Section 13.13.030 from being "Plumbing Board of Appeals" to replacing it with the title of "Purpose and Scope" and to be codified.

SECTION 4. REPEALER.

That Municipal Code Section 13.13.180 through Section 13.13.410 shall hereby be repealed with the exception of: Section 13.13.230(a) entitled "Plumbing work"; Section 13.13.240(a) entitled "Utility work"; Section 13.13.245 entitled "General Contractor"; Section 13.13.250(a) entitled "Lawn Sprinkling work"; and Section 13.13.260(a) entitled "Water Conditioning work". All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed and to be codified.

SECTION 5. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 6. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED
AND
APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

5 F (?)

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

ORDINANCE No. 5990

AN ORDINANCE to amend Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Chapter 13.13 entitled "Licensing/Registration of the Plumbing Trade" to be changed to "Plumbing Board of Appeals" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL**

OF THE

CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. AMENDMENTS.

That Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, is hereby amended by amending Chapter 13.13 which is entitled "Licensing of the Plumbing Trade" by the amendment to Section 13.13.010 entitled "Title" which shall be codified and read as follows:

Section 13.13.010 Title.

This chapter shall be known as the "Plumbing Board of Appeals" ~~licensing/registration of the plumbing trade~~, and may be so cited.

SECTION 2. AMENDMENTS.

That Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, is hereby amended by amending Chapter 13.13 which is entitled "Licensing of the Plumbing Trade" by the amendment to Section 13.13.020 entitled "Purpose and Scope" which shall be codified and read as follows:

Section 13.13.020 Purpose and Scope.

The purpose of this chapter is to provide for the establishment of the Plumbing Board of Appeals ~~licensing of the plumbing trade doing plumbing work in Council Bluffs, Iowa, in order to protect public safety, health, and welfare of the citizens~~ in order to provide for a board of hearing appeals.

SECTION 3. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed

SECTION 4. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 5. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____

Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

5 F(8)

Second Consideration:

Third Consideration:

ORDINANCE No. 5991

AN ORDINANCE to amend Title 13 entitled "Buildings and Construction" of the 2005 Municipal Code of Council Bluffs, Iowa, by amending Chapter 13.13 entitled "Licensing/Registration of the Plumbing Trade" to repeal Section 13.13.180 through Section 13.13.420 to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL**

**OF THE
CITY OF COUNCIL BLUFFS, IOWA**

SECTION 1. REPEALER.

That Municipal Code Section 13.13.180 through Section 13.13.420 shall hereby be repealed. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed

SECTION 2. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 3. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (07-01-08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F (9)

ORDINANCE No. 5992

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.16 entitled "Electrical Code" by adding Section 13.16.165 to be entitled "Electrical Permits issued to" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENTS.

That the 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.16 entitled "Electrical Code", is hereby amended by the addition of Section 13.16.165 to be entitled "Electrical Permits issued to" which shall be codified and read as follows:

13.16.165 Article 18.19(K) added – Electrical Permits issued to.

Article 80.19(K) shall be added to read as follows:

Electrical Permits issued to. An electrical permit shall be issued to the Electrical Contractor/Master who has a valid City of Council Bluffs Electrical Contractor's license or a valid State of Iowa Electrical Contractor's/Master's license or to a Homeowner as set out in Section 13.16.160.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- -08) as by law provided.

PASSED

AND

APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

5 F (10)

ORDINANCE No. 5993

AN ORDINANCE to amend 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.21 entitled "Property Maintenance Code" by amending Section 13.21.065 entitled "Swimming Pools, Spas and Hot Tubs Enclosures" to be codified.

**BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:**

SECTION 1. AMENDMENTS.

That 2005 Municipal Code of Council Bluffs, Iowa, Title 13 entitled "Buildings and Construction" Chapter 13.21 entitled "Property Maintenance Code", is hereby amending Section 13.21.065 entitled "Section 303.2 amended – Swimming Pools, Spas and Hot Tubs" which shall be codified and read as follows:

Section 13.21.065 – Swimming Pools, Spas and Hot Tubs Enclosures.

Section 303.2 – shall be amended as follows:

Enclosures. Private swimming pools, hot tubs and spas, capable of containing water more than 24 inches (610mm) in depth shall be completely surrounded by a fence or barrier at least 48 inches (1219mm) in height above the finished ground level measured on the side of the barrier away from the pool. Gates and door in such barriers shall be self-closing and self-latching. Where the self-latching device is less than 54 inches (1372mm) above the bottom of the gate, the release mechanism shall be located on the pool side of the gate. Self-closing and self-latching gates shall be maintained such that the gate will positively close and latch when released from an open position of 6 inches (152mm) from the gatepost. No existing pool enclosure shall be removed, replace or changed in a manner that reduces its effectiveness as a safety barrier.

SECTION 2. REPEALER.

All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE.

If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. EFFECTIVE DATE.

This ordinance shall be in full force and effect from and after its final passage and publication (- -08) as by law provided.

PASSED
AND
APPROVED: _____, 2008

Thomas P. Hanafan, Mayor

Attest: _____
Judith H. Ridgeley, City Clerk

First Consideration: March 24, 2008

Public Hearing:

Second Consideration:

Third Consideration:

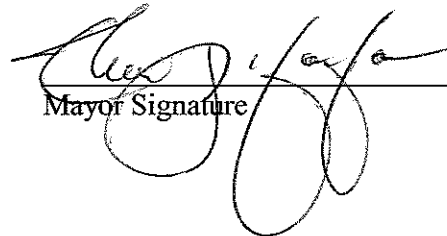
5 F (11)

Council Communication

Department: Legal Case/Project No. Applicant.	Ordinance Nos. <u>5970, 5971, 5972,</u> <u>5973, 5974, 5975, 5976 and 5977</u>	First Reading <u>3/10/2008</u> Second Reading <u>3/24/2008</u> Third Reading _____
Subject/Title Ordinances adding sexual orientation and gender identity to the list of protected classes identified in Chapter 1.40 "Council Bluffs Civil Rights Commission" of the Municipal Code.		
Background/Discussion Our current Municipal Code prohibits discrimination on the basis of race, color, religion, creed, sex, national origin, age, or mental or physical disability in connection with employment, public accommodations, housing, and credit. Up until last July, this was consistent with State Code. At that time, the State of Iowa, through the passage of legislation, added sexual orientation and gender identity to the list of protected classes. The purpose of this series of ordinances is to keep the Council Bluffs Municipal Code consistent with State law to avoid confusion and inconsistencies.		
Recommendation It is the recommendation of the Council Bluffs Civil Rights Commission and the City Legal Department that these ordinances be passed into law.		

Richard Wade, City Attorney

Department Head Signature



Mayor Signature

GA(1-8)

ORDINANCE NO. 5970

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission”, of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.010 “Purposes”, and enacting a new Section 1.40.010 “Purposes.”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 “Council Bluffs Civil Rights Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.010 “Purposes” and enacting a new Section 1.40.010 “Purposes”, to read as follows:

“1.40.010 Purposes. The purposes of the city in enacting this chapter are:

- (1) To secure for all individuals within the city, freedom from discrimination because of race, color, religion, creed, sex, sexual orientation, gender identity, national origin, age or mental or physical disability in connection with employment, public accommodations, housing and credit; and thereby to protect the personal dignity of these individuals, to ensure their full productive capacities, to preserve the public safety, health and general welfare, and to promote the interest, rights and privileges of individual citizens within the city;
- (2) To provide for the execution within the city of policies embodied in the Iowa Civil Rights Act of 1965 and in the Federal Civil Rights Act, and to promote cooperation between the city and the state and federal agencies enforcing those acts;
- (3) To provide, at the local level, a civil rights commission dedicated to the following: effective enforcement of this chapter; service as a source of information to employers, laborers, businessmen, employees, tenants and other citizens relative to various civil rights legislation and regulations; and active assistance to prevent and eliminate the effects of discriminatory acts and practices.”

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

GA(1)

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008
Second Consideration: March 24, 2008
Public Hearing: _____
Third Consideration: _____

ORDINANCE NO. 5971

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission", of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.030 "Definitions" and enacting a new Section 1.40.030 "Definitions".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.030 "Definitions" and enacting a new Section 1.40.030 "Definitions", to read as follows:

"1.40.030 Definitions. For the purposes of this chapter, the following words, terms and phrases are defined as follows:

- (1) "Affirmative action" means a plan whereby a set of specific result-oriented procedures are established and to which a "person" commits him/herself to apply every good faith effort to achieve. The objective of those procedures is to ensure equal opportunity in public and private employment, housing, public accommodation, credit transactions and city contracts.
- (2) "Bona fide occupational qualification (BFOQ)" means a job-related requirement which bears a demonstrable relationship to the successful performance of the job for which it is used.
- (3) "Commission" means the civil rights commission created by this chapter.
- (4) "Commissioner" means a member of the local civil rights commission.
- (5) "Complainant" means any person filing a complaint with the commission.
- (6) "Contract" means any agreement that is awarded, let, procured or entered into with, or on behalf of, the city or any awarding authority thereof.
- (7) "Contracting authority" means any city department, agency, commission, board or any authorized employee, including any purchasing agent of the city, who makes or enters into any contract agreement for the provision of any goods or services of any kind or nature whatsoever for and on behalf of the city.
- (8) "Court" means the district court in and for the judicial district of the state of Iowa in which the alleged unfair or discriminatory practice occurred, or any judge of the court if the court is not in session at the time.
- (9) "Director" means the city attorney or his or her designee.
- (10) "Disability" means a physical or mental impairment which substantially limits one or more of a person's major life activities, a record of having such an impairment or being regarded as having such an impairment. In reference to employment under this chapter, "disability" also means the physical or mental condition of a person which constitutes a

6A(2)

substantial handicap, but which is unrelated to a person's ability to engage in a particular occupation. "Disability" does not include current, illegal use of or addiction to a controlled substance.

(11) "Employee" means any person employed by an employer.

(12) "Employer" means the city of Council Bluffs or any board, commission or department thereof, and every other person employing employees within the state of Iowa.

(13) "Employment agency" means any person undertaking to procure employees or opportunities to work for any other person or any person holding him or herself to be equipped to do so.

(14) "Familial status" means one or more individuals under the age of eighteen domiciled with one of the following:

(A) A parent or another person having legal custody of the individual or individuals.

(B) The designee of the parent or other person having custody of the individual or individuals, with the written permission of the parent or other person.

(C) A person who is pregnant or is in the process of securing legal custody of the individual or individuals.

"Familial status" also means a person who is pregnant or who is in the process of securing legal custody of an individual who has not attained the age of eighteen years.

(15) "Gender identity" means a gender-related identity of a person, regardless of the person's assigned sex at birth.

(16) "Housing for older persons" means any of the following:

(A) Housing intended and operated for ninety percent occupancy by at least one person fifty-five years of age or older per unit, and providing significant facilities specifically designed to meet the physical or social needs of such person.

(B) Housing intended for and occupied solely by persons sixty-two years of age or older.

(C) Housing provided under any state or federal program specifically designated and operated to assist elderly persons (as defined in the state or federal program).

(17) "Individual" means any natural person.

(18) "Labor organization" means any organization that exists for the purpose, in whole or in part, of collective bargaining, of dealing with employers concerning grievances, terms or conditions of employment, or of other mutual aid or protection in connection with employment.

(19) "Person" means one or more individuals, partnerships associates, corporations legal representatives, trustees, receivers, employees or agents, and the city and all of this boards and commissions.

(20) "Public accommodation" means each and every place, establishment, or facility of whatever kind, nature or class which caters or offers services, facilities or goods to the general public for a fee or charge, provided that any place, establishment or facility which caters or offers services, facilities or goods to the general public gratuitously is a public accommodation if the accommodation receives any substantial governmental support or subsidy.

"Public accommodation" does not mean any bona fide private club or other place, establishment, or facility which by its nature is distinctly private, except when a distinctly private place, establishment or facility caters or offers services, facilities, or goods to the general public for a fee or charge, or gratuitously, it shall be deemed a public accommodation during such period of use.

"Public accommodation" includes each state and local government unit or tax-supported district of whatever kind, nature or class that offers services, facilities, benefits, grants, or goods to the public, gratuitously or otherwise. This paragraph shall not be construed by negative implication or otherwise to restrict any part or portion of the pre-existing definition of the term "public accommodation."

(21) "Referral" means the process by which the Iowa Civil Rights Commission notifies the local commission that a complainant has been filed with the state commission, and that the same is postponing its investigative activities for a period of sixty days while the local commission investigates and attempts to resolve the matter.

(22) "Respondent" means that person against whom a complaint has been filed with the commission.

(23) "Retaliation" means any act directed at a complainant or other person with the intent of affecting that person unfavorably because of his or her formal or informal efforts to secure or aid in securing compliance with this chapter.

(24) "Sexual orientation" means actual or perceived heterosexuality, homosexuality, or bisexuality."

(25) "Unfair practice" or "discriminatory practice" is synonymous with, and shall be as specified, in this chapter.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655 § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008

Second Consideration: March 24, 2008

Public Hearing: _____

Third Consideration: _____

ORDINANCE NO. 5972

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission", of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.060 "Powers and duties" and enacting a new Section 1.40.060 "Powers and duties".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.060 "Powers and duties" and enacting a new Section 1.40.060 "Powers and duties", to read as follows:

1.40.060 Powers and duties. The commission shall have the following powers and duties:

- (1) To investigate and study the existence, character, causes and extent of discrimination in public accommodations, employment, apprenticeship programs, on-the-job training programs, vocational schools, extension of credit, real estate, financial transactions and housing in the city, and to attempt the elimination of such discrimination by education and conciliation;
- (2) To advise and consult with the mayor and city council on all matters involving racial, religious, ethnic, or handicapped prejudice or discrimination in the above-listed areas;
- (3) To report to the mayor and city council relative to the actions taken by the commission as requested by the city council or initiated by the commission;
- (4) To invite and enlist the cooperation of racial, religious and ethnic groups, community organizations, labor and business organizations, fraternal and benevolent societies, veterans' organizations, professional and technical organizations, and other groups in the city in order to carry on the work of the commission. The commission may also aid in the formation of local community groups in such neighborhoods as it may deem necessary or desirable to carry out specific programs designed to lessen tensions or to improve understanding in the community;
- (5) To conduct fact-finding conferences to seek settlements between the charging party and respondent prior to a formal investigation, yet subsequent to the timely filing of a charge of discrimination;
- (6) To receive, investigate, and finally determine the merits of complaints alleging unfair or discriminatory practices;
- (7) By written notice, to request the presence of any person having possession of material or real evidence for the purpose of investigating a complaint of discrimination. The written request shall be by certified mail, return receipt requested. When a person fails to provide the requested information, the commission, or its agent, may petition the district court

having jurisdiction for the issuance of a subpoena for the person to so appear, and the court shall in a proper case issue such subpoena;

(8) To hold hearings upon any complaint made against a person, an employer, an employment agency or labor organization, or the employees or members thereof, to administer oaths and take the testimony of any person under oath, and to compel such persons, employer, employment agency or labor organization, or employees or members thereof, to produce for examination any books and papers relating to any matter involved in such complaint. Such hearings may be held by the commission, by any commissioner or by any hearing officer appointed by the commission;

(9) To take the necessary remedial action, as to the judgment of the commission, to carry out the purposes of this chapter. For purposes of this subsection and pursuant to the provisions of this chapter, "remedial action" includes, but is not limited to, the following:

(A) Hiring, reinstatement or upgrading;

(B) Admission or restoration of individuals to programs and admission to a public accommodation or an educational institution;

(C) Sale, exchange, lease, rental, assignment or sublease of real property to an individual;

(D) Payment to the complainant of damages for an injury caused by the discriminatory or unfair practice, which damages shall include, but are not limited to, actual damages, court costs, and reasonable attorney fees, and the issuance of an order requiring the respondent to cease and desist from said practice;

(E) Reporting as to the manner of compliance;

(F) Posting notices in conspicuous places in the respondent's place of business in a form prescribed by the commission and inclusive of notices in advertising material;

(G) In addition to the remedies provided in the preceding provisions of this subsection, the commission may issue an order requiring the respondent to cease and desist from the discriminatory or unfair practice and to take such affirmative action as, in the judgment of the commission, will carry out the purposes of this section;

(H) The terms of a conciliation agreement reached with the respondent may require him or her to refrain in the future from committing discriminatory or unfair practices of the type stated in the agreement; to take remedial action as in the judgment of the commission, will carry out the purposes of this chapter; and a consent to the entry in an appropriate district court of a consent decree embodying the terms of the conciliation agreement. Violation of such a consent decree may be punished as contempt by the court upon showing by the commission of the violation at any time within six months of its occurrence. In all cases where a conciliation agreement is entered into, the commission shall issue an order stating its terms and furnish a copy of the order to the complainant, respondent, and such other person(s) as the commission deems proper. At any time, in its discretion, the commission may investigate whether the terms of the agreement are being complied with by the respondent;

(10) To seek a temporary injunction against the respondent when it appears that a complainant may suffer irreparable injury as a result of alleged violations of this chapter;

(11) To issue such publications and reports of investigations and research as in the judgment of the commission shall tend to promote goodwill among the various racial, religious, ethnic and other groups within the city, and which shall tend to minimize or eliminate discrimination in public accommodations, employment, apprenticeships and on-

the-job training programs, vocational schools, housing, or credit because of race, creed, color, sex, sexual orientation, gender identity, national origin, disability or age;

(12) To cooperate, within the limits of any appropriations made for its operation, with other agencies or organizations, both public and private, whose purposes are consistent with those of this chapter, and in the planning and conducting of programs designed to eliminate discrimination;

(13) To hold regularly scheduled meetings at the call of the chairperson of the commission or when requested by a majority of the members of the commission. The meetings of the commission shall be held at the city hall building in Council Bluffs, Iowa. The city attorney or his or her designee shall provide the commission with such staff as is deemed necessary to carry out the duties and responsibilities of the commission. The mayor or his or her designee shall designate the city fund from which the necessary expenses of the commission shall be paid;

(14) To enter into contracts with the federal and state civil rights agencies which would further the purposes of this chapter and seek from the federal equal employment opportunity commission and the federal and state civil rights commission the designation as a deferral agency, which shall have legal precedence in all other cases in its jurisdiction, except where otherwise agreed, or where a complainant requested in written form that the deferral agency not be notified;

(15) To establish and administer a positive affirmative action plan for the city, and administer any fair housing programs as are necessitated by federal and state regulations;

(16) To assist all city contracting authorities in preparing equal employment opportunity and anti-discrimination provisions for contract specifications and advise them as to the compliance records of prospective contractors;

(17) To require that all contracts entered into on behalf of the city, and all subcontractors thereon for which the consideration is in excess of fifty thousand dollars (\$50,000.00) shall contain a nondiscrimination clause barring discrimination in employment, and shall require that the public notices contain the provisions set forth therein;

(18) To require that all city agencies, boards and commissions forward to the agency all equal employment opportunity documents for review and evaluation prior to their submission thereof to any state or federal agency.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5909, § 1, 2007).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED March 10, 2008

THOMAS P. HANAFAN Mayor

Attest: JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008
Second Consideration: March 24, 2008
Public Hearing: _____
Third Consideration: _____

ORDINANCE NO. 5973

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission", of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.080 "Unfair employment practices", and enacting a new Section 1.40.080 "Unfair employment practices".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.080 "Unfair employment practices" and enacting a new Section 1.40.080 "Unfair employment practices", to read as follows:

"1.40.080 Unfair employment practices. (a) It is an unfair or discriminatory practice for any:

(1) Person to refuse to hire, accept, register, classify or refer for employment, to discharge from employment, or to otherwise discriminate in employment against any applicant for employment or an employee because of the age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of such applicant or employee, unless based upon a bona fide occupational qualification;

(2) Labor organization or the employees, agents or members thereof to refuse to admit to membership any applicant, to expel any member, or to otherwise discriminate against any applicant for membership or any member in the privileges, rights or benefits of such membership because of age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of such applicant or member;

(3) Employer, employment agency, labor organization, or the employees, agents, or members thereof to directly or indirectly advertise or in any other manner indicate or publicize that individuals of any particular age, race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability are unwelcome, objectionable, not acceptable or not solicited for employment or membership unless based upon a bona fide occupational qualification. An employer, employment agency or their employees, servants or agents may offer employment or advertise for employment to only the disabled, when other applicants have available to them other employment compatible with their ability which would not be available to the disabled because of their handicap. Any such employment shall not discriminate among the disabled on the basis of race, color, creed, sex, sexual orientation, gender identity, or national origin.

(b) This section shall not apply to:

(1) Any employer who regularly employs less than four individuals. For the purpose of this subsection, individuals who are members of the employer's family shall not be

counted as employees;

(2) The employment of individuals for work within the home of the employer, if the employer or a member of his or her family reside therein during such employment;

(3) The employment of individuals to render personal service to the person of the employer or members of his or her family;

(4) Any bona fide religious institution or its educational facility, association, corporation or society with respect to any qualifications for employment based upon religion when such qualifications are related to a bona fide religious purpose. A religious qualification for instructional personnel or administrative officer, serving in a supervisory capacity of a bona fide religious educational facility or religious institution, shall be presumed to be a bona fide occupational qualification;

(5) This section shall not prohibit discrimination on the basis of age if the person subject to the discrimination is under the age of eighteen (18) years, unless the person is considered by law to be an adult;

(6) This section shall not apply to age discrimination in a bona fide apprenticeship employment program if the employee is over forty-five years of age;

(7) After a handicapped individual is employed, the employer shall not be required under this chapter to promote or transfer such handicapped person to another job or occupation. Any collective bargaining agreement between an employer and labor organization shall contain this section as a part of such agreement.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED

AND

APPROVED _____

First Consideration: March 10, 2008

Second Consideration: March 24, 2008

Public Hearing: _____

Third Consideration: _____

ORDINANCE NO. 5974

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission”, of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.090 “Unfair practices – Accommodations or services”, and enacting a new Section 1.40.090 “Unfair practices – Accommodations or services”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 “Council Bluffs Civil Rights Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.090 “Unfair practices – Accommodations or services” and enacting a new Section 1.40.090 “Unfair practices – Accommodations or services”, to read as follows:

“1.40.090 Unfair practices—Accommodations or services. (a) It is an unfair or discriminatory practice for any owner, lessee, sublessee, proprietor, manager or superintendent of any public accommodation or agent or employee thereof:

(1) To refuse or deny any individual because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability, the accommodations, advantages, facilities, services or privileges thereof, or otherwise to discriminate against any individual because of race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability in the furnishing of such accommodations, advantages, facilities, services or privileges;

(2) To directly or indirectly advertise or in any other manner indicate or publicize that the patronage of individuals of any particular race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability is unwelcome, objectionable, not acceptable, or not solicited.

(b) This section shall not apply to:

(1) Any bona fide religious institution with respect to any qualifications the institution may impose based upon religion, when such qualifications are related to a bona fide religious purpose.

(2) The rental or leasing to transient individuals of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation if the occupant or owner or members of his or her family reside therein. (Ord. 5655 § 1 (part), 2001).

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

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SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008
Second Consideration: March 24, 2008
Public Hearing: _____
Third Consideration: _____

ORDINANCE NO. 5975

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission”, of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.100 “Unfair or discriminatory practices – Housing”, and enacting a new Section 1.40.100 “Unfair or discriminatory practices – Housing”.

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 “Council Bluffs Civil Rights Commission” of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.100 “Unfair or discriminatory practices – Housing” and enacting a new Section 1.40.100 “Unfair or discriminatory practices – Housing”, to read as follows:

“1.40.100 Unfair or discriminatory practices—Housing. It is an unfair or discriminatory practice for any owner, or person acting for an owner, of rights to housing or rental property, with or without compensation, including but not limited to persons licensed as real estate brokers or salespersons, attorneys, auctioneers, agents or representative by power of attorney or appointment, or any person acting under court order, deed or trust, or will:

(1) To refuse to sell, rent, lease, assign or sublease any real property or housing accommodation or part, portion or interest therein to any individual because of the race, creed, color, sex, sexual orientation, gender identity, national origin, religion or disability of such individual;

(2) To discriminate against any individual because of his or her race, color, creed, sex, sexual orientation, gender identity, religion, national origin or disability, in the terms, conditions, and privileges of the sale, rental, lease, assignment, or sublease of any real property or housing accommodation or any part, portion or interest therein;

(3) To directly or indirectly advertise, or in any other manner indicate or publicize, that the purchase, rental, lease, assignment or sublease of any real property or housing accommodations or any part, portion or interest therein by individuals of any particular race, color, creed, sex, sexual orientation, gender identity, religion, national origin or disability is unwelcome, objectionable, not acceptable or not solicited;

(4) To discriminate against the lessee or purchaser of any real property or housing accommodation, or part, portion or interest in real property or housing accommodation, or against any prospective lessee or purchaser of the property for accommodation, because of the race, color, creed, religion, sex, sexual orientation, gender identity, disability, or familial status, age or national origin of individuals who may, from time to time, be present in or on the lessee’s or owner’s premises for lawful purposes at the invitation of the lessee or owner as friends, guests, visitors, relatives or in any similar capacity;

(5) The provisions of subsections (1) through (4) of this section shall not apply to the following:

(A) The rental, leasing or occupancy of dwellings owned or operated by a religious organization,

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association, or society, or any nonprofit institution operated, supervised, or controlled by a religious organization, association or society, where preference in rental, leasing, or occupancy is given to persons of the same religion, unless membership in the religion is restricted on account of race, color, or national origin.

(B) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than two families living independently of each other, if the owner or member of the owner's family reside in one of the accommodations.

(C) The rental or leasing of a housing accommodation in a building which contains housing accommodations for not more than four families living independently of each other, if the owner resident in one of the housing accommodations for which the owner qualifies for the homestead tax credit under Iowa Code Section 425.1.

(D) The rental or leasing of less than six rooms within a single housing accommodation by the occupant or owner of such housing accommodation, if the occupant or owner or members of that person's family reside there.

(E) Restrictions based on sex on the rental or leasing of housing accommodations by nonprofit corporation.

(F) The rental or leasing of a housing accommodation within which residents of both sexes must share a common bathroom facility on the same floor, of the building.

(6) The provisions of this section relating to "familial status" shall not apply to housing for older persons, as defined in Section 1.40.030(22);

(7) Nothing in this chapter limits the applicability of any reasonable local, state or federal restriction on the maximum number of occupants permitted to occupy a dwelling.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED

AND

APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008

Second Consideration: March 24, 2008

Public Hearing: _____

Third Consideration: _____

ORDINANCE NO. 5976

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission", of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.110 "Unfair credit practices", and enacting a new Section 1.40.110 "Unfair credit practices".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.110 "Unfair credit practices" and enacting a new Section 1.40.110 "Unfair credit practices", to read as follows:

"1.40.110 "Unfair credit practices. a) It is an unfair or discriminatory practice for any:

- (1) Creditor to refuse to enter into a consumer credit transaction or impose finance charges or other terms or conditions more onerous than those regularly extended by that creditor to consumers of similar economic backgrounds, because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity, or physical disability;
- (2) Person authorized or licensed to do business in this state pursuant to Chapters 524, 533, 534, 536, or 536A of the Code of Iowa, to refuse to loan or extend credit or to impose terms or conditions more onerous than those regularly extended to individuals of similar economic backgrounds, because of age, color, creed, national origin, race, religion, marital status, sex, sexual orientation, gender identity or physical disability;
- (3) Creditor to refuse to offer credit, life or health accident insurance because of color, creed, national origin, race, religion, marital status, age, physical disability or sex, sexual orientation, gender identity. Refusal by a creditor to offer credit, life or health accident insurance based upon the age or physical disability of the consumer shall not be an unfair or discriminatory practice if such denial is based solely upon bona fide underwriting considerations not prohibited by U.S.C.A Title 20.

(b) The provisions of this section shall not be construed by negative implication or otherwise to narrow or restrict any other provisions of this chapter.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from

6A(7)

said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008
Second Consideration: March 24, 2008
Public Hearing: _____
Third Consideration: _____

ORDINANCE NO. 5977

AN ORDINANCE to amend Chapter 1.40 Council Bluffs Civil Rights Commission", of the 2005 Municipal Code of Council Bluffs, Iowa, by repealing Section 1.40.140 "Retaliation", and enacting a new Section 1.40.140 "Retaliation".

BE IT ORDAINED
BY THE CITY COUNCIL
OF THE
CITY OF COUNCIL BLUFFS, IOWA:

SECTION 1. That Chapter 1.40 "Council Bluffs Civil Rights Commission" of the 2005 Municipal Code of Council Bluffs, Iowa, be and the same is hereby amended by repealing Section 1.40.140 "Retaliation" and enacting a new Section 1.40.140 "Retaliation", to read as follows:

"1.40.140 "Retaliation. It is an unfair or discriminatory practice for any person to:

- (1) Discharge, harass, penalize or otherwise retaliate against an individual because of that individual's attempts to secure compliance or aid in securing compliance with this chapter or the remedies provided hereunder;
- (2) Discharge, harass, penalize or otherwise retaliate with respect to employment, housing, public accommodation or financial practices against any individual because of that individual's association with persons of a particular race, religion, creed, national origin or sex, sexual orientation, or gender identity;
- (3) Discriminate against another individual in any of the rights protected against discrimination on the basis of age, race, creed, color, sex, sexual orientation, or gender identity, national origin, religion or disability by this chapter because such individual has lawfully opposed any practices forbidden under this chapter, obeys the provisions of this chapter, or has filed a complaint, testified or assisted in any proceeding under this chapter.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed. This is Ord. 5655, § 1 (part), 2001).

SECTION 3. Severability Clause. If any of the provisions of this ordinance are for any reason declared illegal or void, then the lawful provisions of this ordinance which are severable from said unlawful provisions, shall be and remain in full force and effect, the same as if the ordinance contained no illegal or void provisions.

6A(8)

SECTION 4. Effective Date. This ordinance shall be in full force and effect from and after its final passage and publication as by law provided.

PASSED
AND
APPROVED _____

THOMAS P. HANAFAN Mayor

Attest: _____
JUDITH RIDGELEY City Clerk

First Consideration: March 10, 2008
Second Consideration: March 24, 2008
Public Hearing: _____
Third Consideration: _____